Legislative Summary **LS-396E**

BILL C-10: AN ACT RESPECTING THE NATIONAL MARINE CONSERVATION AREAS OF CANADA

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LEGISLATIVE HISTORY OF BILL C-10

HOUSE OF COMMONS	
Bill Stage	**Date**
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Second Reading:	16 May 2001
Committee Report:	1 November 2001
Report Stage:	6 November 2001
Third Reading:	27 November 2001

SENATE	
Bill Stage	**Date**
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Committee Report:	5 June 2002
Report Stage:	
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Statutes of Canada 2002, c.18

N.B. Any substantive changes in this Legislative Summary which have been made since the preceding issue are indicated in **bold print.**

Legislative history by Peter Niemczak

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BACKGROUND

National marine conservation areas are intended to conserve representative examples of Canada's 29 marine environments in coastal zones and the Great Lakes. Policy direction for the program was first provided in 1986 with the release of the *National Marine Parks Policy*. In 1994, Parks Canada released and tabled in Parliament a document entitled *Guiding Principles and Operational Policies*.(1) Parks Canada quickly followed this in 1995 with the release of the National Marine Conservation Areas System Plan, *Sea to Sea to Sea*, which summarized the characteristics of the 29 marine areas identified. In 1996, Parks Canada released a discussion paper entitled *Charting the Course – Towards a Marine Conservation Program.*(2)

The change of the name "marine park" to "marine conservation area" reflects a realization that national marine conservation areas are not simply "parks in the water." Marine conservation areas involve a partnership between several federal departments. Under the *Oceans Act*, the Minister of Fisheries and Oceans can establish "marine protected areas." Additionally, Environment Canada can establish "national wildlife areas" or "marine wildlife areas" under the *Canada Wildlife Act*, as well as "migratory bird sanctuaries" under the *Migratory Birds Convention Act*.

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* Notice: For clarity of exposition, the legislative proposals set out in the Bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both Houses of Parliament, receive Royal Assent, and come into force.

(1) See the Parks Canada website at: http://www.parcscanada.gc.ca/library/PC_Guiding_Principles/PARK60_e.htm

(2) See the Parks Canada website at: http://www.parkscanada.pch.gc.ca/library/to_NMCA_act/to_act1e.htm

Generally speaking, however, Fisheries and Oceans Canada and Environment Canada focus on addressing a specific need to resolve particular resource management problems, whereas the Parks Canada program is intended to provide a representative sampling of the various marine environments found in Canada's oceans and the Great Lakes. Unlike national parks, whose resources are fully protected, marine conservation areas are managed for sustainable use and there is a focus on recreation, tourism, education and research.

Bill C-10 allows Parks Canada to implement the national marine conservation areas strategy. Currently, federal-provincial agreements are either in place or under consideration for four parks representing 5 of the 29 marine regions: Gwaii Haanas (Queen Charlotte Shelf and the Hecate Strait marine regions); Fathom Five (Georgian Bay region); Lake Superior region (proposed); and Southern Strait of Georgia (proposed, Strait of Georgia region). The Saguenay-St. Lawrence Marine Park represents a sixth region (St. Lawrence Estuary), but is not affected by the passage of Bill C-10 because the park is governed by separate legislation passed in 1997.

Bill C-48, the predecessor bill to Bill C-10, was introduced in the 1st session of the 36th Parliament on 11 June 1998. It was referred to the Standing House of Commons Committee on Canadian Heritage, which heard evidence in February and March 1999. When the Committee presented its Seventh Report ("the 1999 amendments") to the House of Commons, a number of significant amendments were made. Bill C-48 died on the *Order Paper* when the 1st session of Parliament was prorogued, but reappeared as Bill C-8 in the 2nd session of the 36th Parliament. Bill C-8 was deemed to have been read a second time, referred to a committee, and reported with amendments. Bill C-8, in its turn, died on the *Order Paper* when the 36th Parliament was dissolved in October 2000. Bill C-10, introduced on 20 February 2001, incorporates the 1999 amendments, as well as the amendments to Bill C-8 at report stage.

Bill C-10 was referred to the Standing Committee on Canadian Heritage on 16 May 2001, and reported with amendments on 1 November 2001. It was concurred in at report stage, with one further amendment, and given third reading on 27 November 2001.

DESCRIPTION AND ANALYSIS

A. Preamble

The Preamble of Bill C-10 refers to a number of principles, including:

- the importance of natural, self-regulating marine ecosystems for the maintenance of biological diversity; and
- the Government of Canada is committed to adopting the precautionary principle in the conservation and management of the marine environment so that, where there are threats of environmental damage, preventive measures are not postponed because of lack of scientific certainty.

The Preamble also notes the need to:

a. establish a system of marine conservation areas representative of Canada's oceans and the Great Lakes of a sufficient size to maintain healthy marine ecosystems;

b. contribute to the establishment of an international network of such protected marine areas;

c. consider implications for ecosystems when planning and managing marine conservation areas;

d. provide opportunities for Canadians and others to appreciate and enjoy Canada's natural and cultural marine heritage;

e. recognize that the marine environment is fundamental to the social, cultural and economic well-being of people living in coastal communities;

f. provide opportunities for the ecologically sustainable use of marine resources for the lasting benefit of coastal communities;

g. promote educational, research and monitoring opportunities within the marine environment; and

h. involve federal and provincial bodies, affected aboriginal and coastal communities, and bodies established under land claims agreements in the effort to establish and manage these areas.

Paragraphs (e), (g) and (h) were added by the 1999 amendments.

The Committee report amended the Preamble in several ways, all within the third paragraph, which deals with the wish of Parliament to affirm certain values. In the subparagraph dealing with the need to provide opportunities for the ecologically sustainable use of marine reserves, the words "through the zoning of marine conservation areas" have been added. A new subparagraph affirms the need to "consider traditional ecological knowledge in the planning and management of marine conservation areas." The final subparagraph – dealing with involvement and consultation – was slightly restructured, and a reference to "aboriginal governments" was added to complement the reference to "aboriginal organizations." This addition of "aboriginal governments" was made throughout the Act wherever relevant.

B. Short Title, Definitions, etc.

Clause 1 of the bill provides that the short title is the Canada National Marine Conservation Areas Act. This is a change from Bill C-48 and C-8, which would both have been referred to as the Marine Conservation Areas Act.

Clause 2(1) contains the definition section. The "Minister" is the Minister of Canadian Heritage.

"Disposal" and "waste or other matter" are defined in the same manner as in the *Canadian Environmental Protection Act, 1999*, while "fishing" is defined in the same manner as in the *Fisheries Act*. This would presumably facilitate efforts to coordinate the management of national marine conservation areas.

"Marine conservation officer" and "enforcement officer" are persons designated under clauses 18 and 19 of Bill C-10, and these are described below in section G. "Superintendents" are appointed under the *Parks Canada Agency Act.* A national "marine conservation area" is listed in Schedule 1, and a national marine conservation area "reserve" is listed in Schedule 2. "Public lands" are lands that belong to the Government of Canada or that the government has the power to dispose of.

One of the most important definitions is probably that of "ecosystem," because clause 9(3) provides that the "primary considerations" in the development and modification of a management plan for any marine conservation area "shall be principles of ecosystem

management and the precautionary principle." This definition is the same as in the *Canadian Environmental Protection Act, 1999*:

> "ecosystem" means a dynamic complex of animal, plant and microorganism communities and their non-living environment interacting as a functional unit.

Clause 2(2) was added by the 1999 amendments, and states that nothing in the Act shall be construed as affecting existing aboriginal or treaty rights guaranteed by section 35 of the *Constitution Act, 1982*.

Clause 2(3), which is new to Bill C-10, clarifies that the establishment of a marine conservation area within the exclusive economic zone does not constitute any new claim by Canada as to rights, jurisdiction or duties within that area.

The Committee report added a new clause 2(4) confirming the application of the Act to reserves. Originally, this provision was clause 30, which was deleted by the report. Clause 6 describes the process whereby a new reserve would be created.

Clause 3 confirms that the Act would be binding on both Canada and the provinces.

C. Marine Conservation Areas

Clause 4(1) defines the purpose of establishing marine conservation areas as "protecting and conserving representative marine areas for the benefit, education and enjoyment of the people of Canada and the world." Clause 4(2) explains that "reserves" for marine conservation areas are established when part of such an area is subject to a claim by aboriginal people that has been accepted by the federal government for negotiation as a comprehensive land claim. Clause 2(4) specifies that the Act applies to a reserve as if it were a marine conservation area. **The Committee report amended clauses 4(2) and 4(3) in an attempt to clarify the relationship between national marine conservation areas, reserves and aboriginal land claims.**

Clause 4(3) requires areas and reserves to be managed and used in a "sustainable manner" to meet the needs of current and future generations without compromising the associated ecosystems. Clause 4(4), which was added by the 1999 amendments, requires the marine conservation areas to be divided into zones, including zones that foster ecologically

sustainable use of marine resources and zones that "fully protect special features and fragile ecosystems."

The Committee report made several amendments to clause 4(4). The words "for the purpose of achieving sustainable use of marine reserves" at the beginning of 4(4) were deleted, apparently because the phrase is repetitive. As amended, clause 4(4) requires that there be at least one zone for ecologically sustainable use of marine resources and at least one zone that fully protects special features or sensitive use of elements of ecosystems. With respect to the last provision, the word "sensitive" has replaced "fragile," and the term "elements of ecosystems" has replaced "ecosystems."

Clause 5(1) provides that, subject to the process set out in clause 7, the Governor in Council could create or enlarge marine conservation areas by adding the name and a description, or an altered description, to Schedule 1 of the Act. Clause 5(3) prohibits any changes to Schedule 1 for the purpose of reducing the size of a marine conservation area without legislative authority. The power to create national marine conservation areas applies to internal waters, the territorial sea or exclusive economic zone, and any coastal lands or islands within Canada. Clause 5(2) limits the additions or amendments to Schedule 1 to situations in which Canada's ability to create a marine conservation area is unencumbered by provincial claims or unfulfilled land claim agreements.

Because there was some concern in Committee as to what would occur if both the federal government and a provincial government claimed title to lands within a proposed marine conservation area, the Committee report added a new subsection to section 5. Section 5(3) now provides that the Governor in Council may amend Schedule 1 to remove a marine conservation area, or to alter its description, if a court finds that the federal government does not have clear title to lands within the marine conservation area.

Clause 6 deals with marine conservation area reserves, subject to the process laid out in clause 7. When part of the marine conservation area is the subject of a comprehensive land claim, the name and description of the reserve is added to Schedule 2. When the land claim is settled, the Governor in Council could, depending upon the settlement, remove or alter the description of the reserve in Schedule 2 and add the name and description of the area to Schedule 1.

The Committee report added a new section 6(3) which parallels the provision in section 5 providing for a judicial finding as to title.

Clause 7 requires that a proposed amendment to Schedule 1 or 2 – that either creates or enlarges a marine conservation area or a reserve – be tabled with each House of Parliament. Any documentation on the proposed area or reserve, including information on consultations and an interim management plan, must also be tabled. The proposed amendment would be referred to a standing committee of each House, which would have the option of reporting within 20 sitting days. If either standing committee reported to the full House that it disapproved of the amendment, a motion to concur in the report would be put to the House and debated for not more than three hours.

The Committee report made two significant amendments to clause 7. First, the length of time for the committee of each House to report to that House has been extended from 20 to 30 sitting days, consistent with the *Canada National Parks Act*. Consequently, the length of time before an amendment can be made if neither Committee reports to its respective House has been extended from 21 to 31 sitting days. As well, the three-hour limitation on debate if a committee does report to its respective House has been deleted.

Second, the requirement that other reports on the proposed marine conservation areas be tabled in Parliament has been expanded to include more detailed documentation. The Committee report required that specific information be tabled on the organizations and groups consulted, the date of the consultation, and a summary of their comments. At report stage, a further amendment was approved requiring that the results of any assessments of mineral and energy resources undertaken also be tabled.

If either House passed a motion concurring in a report disapproving the proposed amendment to Schedule 1, the proposed amendment could not be made. If no such motion were proposed in either House after **31 sitting days**, the proposed amendment to Schedule 1 could be made. "Sitting day" is not defined, so the Senate standing committee presumably would have 20 Senate sitting days to report, which might considerably lengthen the anticipated time frame.

Because Bill C-10 does not create any national marine conservation areas or reserves, Schedules 1 and 2 are currently blank. Once Bill C-10 becomes law, existing marine conservation areas will be added to the schedules.

D. Administration

Clause 8 provides that the Minister of Canadian Heritage is responsible for marine conservation areas in relation to any matters not assigned by legislation to another Minister. The Minister is given a broad mandate to achieve the purposes of the Act, including conducting scientific research and studies based on traditional ecological knowledge and traditional aboriginal ecological knowledge in relation to marine conservation areas. The Minister can also enter into agreements with federal and provincial ministers and agencies, local and aboriginal governments, bodies established under land claims agreements, and non-governmental organizations. **The Committee report amends clause 8(4) so that the Minister could also enter into agreements with persons.**

Clause 9 requires the Minister to prepare a management plan for a marine conservation area within five years of its establishment, and after extensive consultation. This management plan, which would be tabled in both Houses of Parliament, would include provision for ecosystem protection, human use and zoning. The Minister must review such management plans at least every five years. Clause 9(3) states that the two primary considerations in developing a management plan must be: (1) principles of ecosystem management; and (2) the precautionary principle. Clause 9 also provides that the provisions of a management plan to do with fishing, aquaculture and marine navigation and safety are subject to an agreement between the Minister of Canadian Heritage and the Minister of Fisheries and Oceans. Similarly, any plan including lands that are the subject of an aboriginal land claims agreement must be consistent with the agreement.

The Committee report inserts references to interim management plans, as well as management plans. Also, the reference to a management plan including a "provision for ecosystem protection, human use and zoning" has been replaced by a plan that includes "a long-term ecological vision for the marine conservation area and provision for ecosystem protection, human use, zoning, public awareness and performance evaluation."

Clauses 10 and 11 deal with consultation and advisory committees. Clause 10(1) requires the Minister to consult with a broad range of named parties, including:

- relevant federal and provincial ministers and agencies;
- affected coastal communities; and
- aboriginal organizations and bodies established under land claims agreements.

The Minister can also consult with anyone else he or she considers appropriate. At least every two years, the Minister is required to table in each House of Parliament a report on the state of national marine conservation areas, and the progress towards completing a representative system of such areas. **The Committee report clarified that consultation by the Minister would be mandatory. It also clarified that the requirement of consultation applied to the modifications of marine conservation areas as well as their creation, and to regulations as well as policy.**

Clause 11 requires the Minister to establish a management advisory committee for each marine conservation area, after consultation with such other governmental bodies as the Minister considers appropriate. Clause 11(2) allows the Minister to establish other advisory committees on marine conservation area policy or administration. **The Committee report amended clause 11(3) to establish that the Minister must consult with such federal and provincial bodies, affected coastal communities and aboriginal organizations, governments and land claims bodies as he or she considers appropriate. Originally, the references to the classes of persons to be consulted were much vaguer.**

E. Prohibitions

Clause 12 prohibits the disposal of public lands, or the use or occupation of such land, except as permitted by the Act or the regulations.

Clause 13 implements a complete ban on exploration or exploitation of hydrocarbons, minerals, aggregates or any other inorganic matter within a marine conservation area.

Clause 14 prohibits the disposal of any substance into the waters of a marine conservation area unless it was authorized by a superintendent pursuant to this bill, or under the provisions of the *Canadian Environmental Protection Act, 1999* (*CEPA*). As well, the Minister of Canadian Heritage has to concur in the issuance of any such permit under *CEPA*. The provisions of *CEPA* that allow dumping to take place without a permit where necessary to avert a

danger to human life or, in certain circumstances, to transport facilities would also apply to marine conservation areas. **The Committee report amended clause 14 so that the prohibition against disposing of substances would apply "within a marine park" rather than "into the waters of a marine park."**

Clause 15 allows the superintendent of a marine conservation area to issue, amend, suspend or revoke permits authorizing activities in the marine conservation area, to the extent that such activities are authorized by the regulations. Consistent with the 1999 amendments, clause 15(2) clarifies that a permit under the *Fisheries Act* is deemed to also be a permit under this Act, subject to regulations made on the recommendation of both the Minister of Canadian Heritage and the Minister of Fisheries and Oceans. Clause 15(3) clarifies that the superintendent of a marine conservation area is not permitted to suspend or revoke a licence issued under the *Fisheries Act*.

The Committee report tightened the language in clause 15 in two ways: making it clear that the superintendent of a marine conservation area could issue or change only those permits that are consistent with the management plan; and clarifying that the only licences issued under the *Fisheries Act* that are protected are "fishing licences."

F. Regulations

Clause 16 permits the Governor in Council to make regulations in a broad range of areas for the control and management of marine conservation areas, provided the regulations are consistent with international law. This confirms that the Act is not designed to give Canada any new rights in offshore waters, but only to regulate existing rights. The regulations could deal with the following areas:

- the protection of ecosystems as well as cultural, historical and archaeological resources;
- the management of renewable resource harvesting activities, such as fishing or aquaculture;
- zoning within marine conservation areas;
- regulating or prohibiting activities, or the use of facilities, in marine conservation areas;
- permits issued pursuant to clause 15, and fees for the use of resources, facilities and services;
- regulating leases and other legal instruments with respect to public lands in marine conservation areas;
- public safety;

- aircraft which might cause a danger or disturbance to wildlife and wildlife habitat;
- the control of scientific research activities;
- disposal in marine conservation areas not covered by the *Canadian Environmental Protection Act, 1999* provisions on disposal; and
- any of the powers conferred on the Governor in Council by the *Canada National Parks Act*, to the extent that they apply to marine conservation areas.

The Committee report added a new clause 16(1.1) exempting federal search and rescue operations from any regulations made under clause 16.

Certain regulations – that involve fisheries management and conservation; that restrict or prohibit fishing, aquaculture or marine navigation; or that affect marine safety – may only be made on the recommendation of both the Minister of Canadian Heritage and the Minister of Fisheries and Oceans. Similarly, regulations that restrict or prohibit marine navigation, or activities related to marine safety that could be made under the *Canada Shipping Act* or the *Arctic Waters Pollution Prevention Act*, and regulations affecting air navigation, can only be made on the recommendation of both the Minister of Canadian Heritage and the Minister of Transport.

Regulations made on the recommendation of two Ministers would prevail over regulations made under the *Fisheries Act,* the *Coastal Fisheries Protection Act*, the *Canada Shipping Act*, the *Arctic Waters Pollution Prevention Act*, the *Navigable Waters Protection Act,* and the *Aeronautics Act*.

Clause 16(6) allows the Governor in Council to make regulations regarding activities that may be carried on by aboriginal people in a marine conservation area by virtue of their existing aboriginal or treaty rights as recognized and affirmed by section 35 of the *Constitution Act, 1982*. **The Committee report deleted clause 16(6) because the strengthening of consultation provisions elsewhere had made the clause redundant.**

Clause 17 allows the Governor in Council to exempt from the regulations a ship or aircraft operated by Canada, a province or a foreign state if this were necessary in the interests of Canadian sovereignty or security. An exemption is also allowed for the conduct of any maritime activity consistent with the purposes of the Act.

The Committee report amended clause 17 so that there would be a more flexible mechanism for responding to a national emergency or the need to act in the interest

of national security. The Department of National Defence had expressed concerns that clause 17, as worded, would involve an overly complex process for approval of an exemption in emergency circumstances.

G. Enforcement

Clauses 18 and 19 deal with the designation of marine conservation area wardens and enforcement officers for the purposes of the Act. Wardens are persons appointed under the *Parks Canada Agency Act*, and have the power to enforce the Act and its regulations in any part of Canada or the exclusive economic zone. Enforcement officers can be employees of the federal, provincial, municipal or local authorities whose duties include law enforcement and would have the power to enforce specified provisions of the Act or regulations in specified marine conservation areas. Both wardens and enforcement officers are peace officers within the meaning of the *Criminal Code*.

Clause 20 provides for wardens and enforcement officers to take an oath and be provided with a certificate of designation. For enforcement officers, this includes a description of the provisions and regulations that they have the power to enforce, and the area within which their powers apply. They also have the right to cross over or enter private property.

Clause 21 allows a warden or enforcement officer to arrest without a warrant any person found committing an offence under the Act, or any person for whom there are reasonable grounds to believe has committed or is about to commit such an offence. A warden can also arrest a person committing an offence under another Act, unless it takes place in the portion of a marine conservation area that is situated within the exclusive economic zone. These powers are to be exercised in accordance with, and subject to, the *Criminal Code*.

Clause 22 outlines the search and seizure provisions that are available to a warden or conservation officer where a justice of the peace has issued a warrant. Clause 22(3) provides that a warden or enforcement officer may engage in search and seizure activities without a warrant "if the conditions for obtaining a warrant exist but by reason of exigent circumstances it would not be practical to obtain one." The bill does not define the term "exigent circumstances," but in section 8(2.3) of the previous *Canada National Parks Act* the term was described as including "circumstances in which the delay necessary to obtain a warrant … would result in danger to human life or safety or destruction of evidence."

Clause 23 provides for the custody of seized items, largely using existing provisions of the *Criminal Code*. If the ownership of a seized item cannot be ascertained, it

reverts to the Crown (either the Canadian or a provincial Crown, depending on which level of government employed the officer involved). If a seized item is perishable, the warden or enforcement officer may dispose of it or destroy it at his or her discretion.

H. Offences and Punishment

Clause 24 sets a penalty for an offence: up to $100,000 for a summary conviction offence or $500,000 on conviction by indictment. The decision as to whether to prosecute by way of summary conviction or indictment is at the discretion of the prosecutor, and tends to reflect the seriousness of the offence. Clause 28 requires that a prosecution by way of summary conviction be commenced within two years of the date on which the offence became known to the Minister.

Clauses 25 and 26 establish a scheme for dealing with seized property.

Clause 27 allows a court to take further action against a convicted person where justified by the nature and circumstances of the offence. A court can order a convicted person to:

- refrain from any activity that might result in a continuation or repetition of the offence;
- take any action the court considers appropriate to remedy or avoid any harm that resulted, or may result, from the offence;
- reimburse the Minister for the cost of any remedial or preventive action taken as a result of the offence;
- post a bond to ensure compliance with any orders made by the court; and
- comply with "any other conditions that the court considers appropriate."

If the court decides to suspend sentence, it can still make any of the above orders. If the convicted person does not comply with the orders, or is convicted of another offence, the court can impose a sentence for up to three years after the original conviction.

I. Mitigation of Environmental Damage

Clause 29 deals with situations in which a polluting substance is discharged within a marine conservation area. Any person who is responsible for the substance or contributes to the discharge has a duty to take "reasonable measures" to prevent or mitigate any damage to the environment. If the Minister is dissatisfied with the measures taken, the Minister can order the responsible parties to take specific measures. If they fail to comply, the Minister

can take such measures on their behalf and at their expense. However, the Minister cannot become involved if the circumstances are already covered by the *Canada Shipping Act*, the *Arctic Waters Pollution Prevention Act*, or the *Canadian Environmental Protection Act, 1999*.

The Committee report amended clause 29 so that the Minister, if dissatisfied with the measures taken, must (rather than may) order the person to take reasonable measures.

J. Consequential Amendments

Clauses 31 to 41 make minor amendments to the *Canada National Parks Act*, the *Department of Canadian Heritage Act* and the *Parks Canada Agency Act* to recognize the existence of the Canada National Marine Conservation Areas Act.

The Committee report added a new section 31.1 to the consequential amendments which provides for minor amendments to the *Canada National Parks Act* to make that Act consistent with the amendments made in Committee to Bill C-10.

COMMENTARY

National marine conservation areas are established for two reasons:

- to protect and conserve areas representative of Canada's ocean environments and the Great Lakes; and
- to encourage public understanding, appreciation and enjoyment of this marine heritage.

The concept itself enjoys widespread support, but fisheries representatives, as well as others involved in natural resource industries, have expressed concerns that the Act as drafted may unduly restrict their activities. Questions have also been raised as to whether the Department of Canadian Heritage is the appropriate sponsoring department, or whether the program should be part of an integrated oceans management plan under the Minister of Fisheries and Oceans.

A number of the 1999 amendments recommended have been incorporated into Bill C-10; this recognizes the importance of the comprehensive land claims process and land claims agreements to the marine conservation area framework.

One aspect of the Bill that could attract comment is the definition of *precautionary principle*. Although the appropriate definition of the term is the subject of some debate, there is broad support for the wording of Principle 15 of the 1992 *Rio Declaration on Environment and Development*:

> In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Bill C-10 considerably expands this concept by deleting the references to *serious or irreversible* damage, *full* scientific certainty, and *cost-effective* measures. By way of comparison, the *Canadian Environmental Protection Act*, *1999*, follows the *Rio Declaration* closely in its Preamble:

> Whereas the Government of Canada is committed to implementing the precautionary principle that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

The definition of *precautionary principle* could be of considerable significance, considering that clause 9(3) states that the "primary considerations in the development and modification of management plans shall be principles of ecosystem management and the precautionary principle."

Witnesses before the House of Commons Standing Committee on Canadian Heritage presented a wide range of views. Environmental groups were clearly in favour of Bill C-10, although various amendments were suggested to strengthen the provisions protecting the marine ecosystem. A number of witnesses believed that certain fisheries activities could not be consistent with the preservation of marine conservation areas. Environmental groups were unanimous in their view that Parks Canada was the appropriate body to administer marine conservation areas. They pointed out, for example, that Parks Canada has an excellent reputation in the public education and interpretive components of parks management. They thought that these aspects would be particularly important in developing marine conservation areas.

Representatives of the fishing industry generally agreed with the concept of marine conservation areas, but believed that these areas should be managed by the Minister of Fisheries and Oceans under the *Oceans Act*.

Representatives of the resource development sector argued against the absolute prohibition on exploration for, or exploitation of, hydrocarbons and minerals in clause 13. They were strongly supported by a number of representatives from coastal and inland communities in northern British Columbia, who believed that they had not been adequately consulted.

First Nations groups stressed the need for continuing consultation and accommodation of their concerns. Overall, they approved of the legislation but stressed the need for Parks Canada to continue to involve them in a cooperative manner, and to recognize and protect their place in marine conservation areas and ecosystems.